IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5214 of 1994

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAGATI VIDYALAY

Versus

STATE OF GUJARAT

Appearance:

MR AJ SHASTRI for Petitioner No. 1

MR LB DABHI, AGP, for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 24/12/2004

ORAL JUDGEMENT

1. The petitioner herein has challenged the order dated 25.2.1994 at Annexure-E to the petition and to direct the respondent authorities to pay the amount as mentioned in the communication dated 25.2.1994.

2. The petitioner institution is Government recognised grant-in-aid institution. On 20th November 1993 the petitioner was informed by respondent no.2 that certain expenses incurred by the petitioner cannot be sanctioned. The petitioner submitted their reply by letter dated 9.12.1993 justifying the expenses. Thereafter a show-cause notice dated 15.1.1994 was issued to the petitioner to which also petitioner submitted their reply. The respondent no.2 thereafter by communication dated 25.2.1995 directed to deduct the amount and made it unrecognised for grant purpose. It is this order which is under challenge in this petition.

3. Heard the learned counsel for the respective parties.

4. In the matter of the year 1994 reply has been filed by the DEO on 6th December 2004. In the affidavit a contention is raised that in view of the ban imposed by the Government Resolution dated 13.2.1993 the amount could not be sanctioned. As per the said Resolution there is a ban on purchase of electronics items. From the record it is clear that the said Resolution dated 12th March 1993 was not communicated to the petitioner. Though the said Resolution is referred to all Principals of government as well as non-government schools, it does not establish that the same has been received by the petitioner.

5. Apart from that, the items which were purchased by the petitioner were for maintaining the standard of the education and they are not covered under the communication dated 12th March 1993. Necessary explanation was given by the management on 9th December 1993.

6. In the premises aforesaid, the petition is required to be allowed and it is accordingly allowed. The order dated 25.2.1994 is quashed and set aside. While admitting the matter this Court had directed that the amount of the grant should be released in favour of the petitioner on the condition of petitioner furnishing security for the said amount. Therefore, the security shall be released by the authority immediately. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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